



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/821,448	04/08/2004	Roberta Masini	741014.1032	1333

7590

08/11/2005

Grant E. Pollack, Esq.
Steinberg & Raskin, P.C.
15th Floor
1140 Avenue of the Americas
New York, NY 10036-5803

EXAMINER

COLE, LAURA C

ART UNIT

PAPER NUMBER

1744

DATE MAILED: 08/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/821,448

Applicant(s)

MASINI, ROBERTA

Examiner

Laura C. Cole

Art Unit

1744

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 July 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Information Disclosure Statement

1. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
 2. Ascertaining the differences between the prior art and the claims at issue.
 3. Resolving the level of ordinary skill in the pertinent art.
 4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
2. Claims 1-5 and 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Briggs, USPN 1,092,014 in view of Gekhter et al., USPN 5,488,751.

Briggs discloses the claimed invention including a handle (1) mounting a toothbrush (28), the brush being integral with a support (14) rotatably joined to the handle (via 11, 12, or 13; see Figures) so that tilting of the brush relative to the axis of the handle can be adjusted (Page 1 Column 1 Lines 8-16), the toothbrush being further provided with a "lock" (portion having to do with "21"). The support has a pin traverse to the axis of the brush (13) for rotatable engagement with a seat at an end of the handle (see Figures). There are parallel, ring-shaped expansions (11) each defining a relatively circular seat (see Figures 4-5) and are formed in the end of the handle and are relatively parallel to one end of the handle (see Figures 4-5 particularly). The diameter of the seat appears to be substantially equal to the diameter of the pin (see Figure 10). The transverse pin is provided at the other end of the brush (see Figures 1-2). Briggs discloses a toothbrush, however not a toothbrush that is specifically a wire brush. Briggs further includes connectable half portions (2 and 3), each of the portions terminating with one of the ring-shape expansions (11; see Figures 4-5) and being rotatably joined to one another at opposing ends (see Figures), a protrusion (8) being formed on one of the halves (3) for engaging in a corresponding cavity (9) formed correspondingly in the other portion (2), so when applying relatively moderate force thereto so that the portions are joined to one another (Page 1 Lines 52-68).

Gekhter et al. disclose an interdental toothbrush that is a wire brush (14) for cleaning between teeth and also the upper brush support section is rotatably joined to the handle (see Figure 7).

Art Unit: 1744

It would have been obvious for one of ordinary skill in the art to substitute the flat toothbrush portion of Briggs for a wire brush, as Gekhter et al. teach, as an alternative type of toothbrush that is also beneficial for cleaning between teeth.

3. Claims 1-5 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over de La Tour, USPN 4,731,896 in view of Gekhter et al., USPN 5,488,751.

de La Tour discloses the claimed invention including a handle (5) mounting a toothbrush (31), the brush being integral with a support (3) rotatably joined to the handle (Column 2 Lines 57-59) so that tilting of the brush relative to an axis of the handle can be adjusted (see Figure 2), the toothbrush being further provided with a "lock" (Column 3 Lines 36-39, Column 4 Lines 32-39). The support has a pin traverse to the axis of the brush (23, 84, or 140) for rotatable engagement with a seat at an end of the handle (see Figures). There are parallel, ring-shaped expansions (10,12 or 80,82 or 136,137) each defining a relatively circular seat (see Figures) and are formed in the end of the handle and are relatively parallel to one end of the handle (see Figures 1-2 particularly). The diameter of the seat appears to be substantially equal to the diameter of the pin (see Figures). The transverse pin is provided at the other end of the brush (see Figures 1-2). de La Tour discloses a toothbrush, however not a toothbrush that is specifically a wire brush.

Gekhter et al. disclose an interdental toothbrush that is a wire brush (14) for cleaning between teeth and also the upper brush support section is rotatably joined to the handle (see Figure 7).

Art Unit: 1744

It would have been obvious for one of ordinary skill in the art to substitute the flat toothbrush portion of de La Tour for a wire brush, as Gekhter et al. teach, as an alternative type of toothbrush that is also beneficial for cleaning between teeth.

4. Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rocco, USPN 5,581,838 in view of Gekhter et al., USPN 5,488,751.

Rocco discloses the claimed invention including a handle (12) mounting a toothbrush (26), the brush being integral with a support (20) rotatably joined to the handle (via 30) so that tilting of the brush relative to an axis of the handle can be adjusted (see Figures, Abstract), the toothbrush being further provided with a "lock" (Column 4 Lines 50-57). The support has a pin traverse to the axis of the brush (38) for rotatable engagement with a seat at an end of the handle (see Figures). There are parallel, ring-shaped expansions (16, 18) each defining a *relatively* circular seat (see Figures) and are formed in the end of the handle and are relatively parallel to one end of the handle (see Figure 4 particularly). The diameter of the seat appears to be substantially equal to the diameter of the pin (see Figures). The lock comprises at least one radial tooth formed on the pin (on sprockets 42, 44) and a plurality of cavities formed on a surface delimiting the seat for engaging the tooth (66 or 68; Column 4 Lines 41-43), the cavities being spaced angularly relative to one another (see Figure 4), so that the brush is lockable at a selected angle (Column 4 Lines 50-65). The transverse pin is provided at the other end of the brush (see Figure 4). Rocco discloses a toothbrush, however not a toothbrush that is specifically a wire brush.

Art Unit: 1744

Gekhter et al. disclose an interdental toothbrush that is a wire brush (14) for cleaning between teeth and also the upper brush support section is rotatably joined to the handle (see Figure 7).

It would have been obvious for one of ordinary skill in the art to substitute the flat toothbrush portion of Rocco for a wire brush, as Gekhter et al. teach, as an alternative type of toothbrush that is also beneficial for cleaning between teeth.

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura C. Cole whose telephone number is (571) 272-1272. The examiner can normally be reached on Monday-Thursday, 7:30am - 5pm, alternating Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Kim can be reached on (571) 272-1142. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

LCC
LCC


MARK SPISICH
PRIMARY EXAMINER
GROUP 3400
1700